THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.16025 of 2006

Dated: 03-08-2006

Between:
A.Santharam Petitioner

And

The Commissioner, Municipal Corporation of Visakhapatnam and others

Respondents

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.16025 of 2006

ORDER:

1. The writ petition is filed for a Writ of Mandamus declaring that the impugned order passed by the 2nd respondent in Rc.No.PH/687/2005/CMD & H/F.5, dated 10.08.2005 as illegal, arbitrary, and in violation of principles of natural justice and in violation of Articles 14,16 and 21 of the Constitution of India and consequently direct the second respondent herein to dispose of the representation dated 7.3.2005 and pass such other suitable orders.

2. The impugned order reads as hereunder:

> *" Sri A.Santaram, Contractor of the Doctors' Canteen situated besides the Doctors' Association Building, KGH/Visakhapatnam with a direction to apply to the Municipal Corpoation/Visakhapatnam for granting the Licence with all the requisite documents. You are to please attend the office of the undersigned to take back the keys of the Canteen in obedience to the orders passed by the Honourable High Court of AP/Hyderabad.*
>
> *The said petitioner is advised not to prepare or serve food in the premises, till he gets a valid Licence from the Municipal Corporation/ Visakhapatnam."*

3. Sri Ramachandra Murthy, the learned counsel representing the petitioner would submit that the petitioner is aggrieved by the last portion of the order especially the direction not to prepare or serve food in the premises, till he gets a valid licence from the Municipal Corporation, Vishakapatnam. The learned counsel also had taken this court through the contents of the representation made by the petitioner and also the averments made in the affidavit filed in support of the writ petition. Sri Ranga Reddy, the learned standing counsel however, would submit that in the light of the reasons recorded , the petitioner no doubt is at liberty to make a valid application for granting of the licence with all requisite documents as per law. Without complying the

same approaching this court praying for appropriate directions, cannot be sustained.

4. Heard both the counsel.

5. It is stated that the petitioner is running canteen in the premises of King George Hospital, Visakhapatnam in the name of “Doctors Canteen” which was granted by the third respondent through a valid tender notification dated 02-02-2000 by considering as a highest bidder. It is also stated that since then the petitioner running the canteen without any complaint either from the public in general or from the authorities. Thereafter, in the year 2002 there were certain disputes arose between the petitioner and the third respondent with regard to payment of the lease amount as well as the period of lease. With an ulterior motive the third respondent is trying to evict the petitioner by force. It is also stated that the petitioner was constrained to approach the Civil Court by filing suit O.S.No.1687 of 2002 on the file of Additional Junior Civil Judge, Visakhapatnam and obtained status-quo order against the third respondent herein. It is also stated that in order to evict the petitioner as they were unsuccessful in getting the status quo order vacated, have foisted a false complaint to the second respondent and basing on the alleged complaint, the second respondent issued a notice dated 01.02.2005 under Section 521 and 622 of Hyderabad Municipal Corporation Act read with Section 7(i) of Visakhapatnam Municipal Corporation Act 19 of 1979. Subsequently, the second respondent seized the canteen on 08-02-2005 highhandedly alleging that the petitioner running the canteen in unhygienic and unsanitary conditions. Questioning the said notice, the petitioner approached this court by filing writ petition No.2682 of 2005 and this court was pleased to grant liberty to the petitioner to make an appropriate application before the second respondent in turn the second respondent consider the application and pass appropriate order in accordance with law. In the meanwhile, the petitioner has to be allowed to continue the canteen. It is also stated that according to

the direction given by this court, the petitioner made an application to the second respondent on 07.03.2005 for grant of valid licence by enclosing the order copy. Despite the direction given by this court, the second respondent again passed endorsement order which is illegal and in violation of principles of natural justice . It is stated that the order of status quo was granted by the competent civil court. It is need less to say that the said order is to be honoured. It is also stated that certain directions were issued disposing of the writ petition No.2682 of 2005. It is needless to say that the said directions also are to be honoured. It is needless to say that the said orders are to be prevailed over the direction of the last portion of the impugned order as "The said petitioner is advised not to prepare or serve food in the premises, till he gets valid Licence from the Municipal Corporation, Visakhapatnam.

6. Be that as it may, in the light of the reasons which had been recorded in the endorsement dated 10-08-2005, the petitioner is given liberty to make appropriate application for grant of Licence with all the requisite documents in accordance with law and the respondents 1 and 2 to dispose of the same in accordance with law within a period of four weeks from the date of receipt of a copy of this order. It is needless to say that the petitioner is at liberty to make application even forthwith.

7. With the above observation, the writ petition is disposed of. No order as to costs.

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03-08-2006

Stp